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SEP 05 2006

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Serial No. 10/694,304

- 6 -

REMARKS

In a Office Action mailed June 2, 2006, the Examiner rejected all claims over U.S. Patent No. 2,678,476 to Carter, either alone or in combination with U.S. Patent No. 6,202,380 to Trutwin et al. or U.S. Patent No. 3,961,654 to Hasenwinkle. The Examiner also objected to the wording of claims 4 and 10. By the present amendment, independent claim 1 has been amended to clarify the distinctions over the prior art, dependant claims 4 and 10 have been amended to address the Examiner's objections and new claim 16 has been added.

Independent claim 1 stands rejected over the Carter patent. Claim 1 is directed to a baseboard assembly having a base portion with a sloped upper end and a top portion with a sloped lower end. The Carter patent is directed to a trim strip for siding. However, the Examiner relies on Figure 3 which shows lap siding wherein substantially identical pieces of siding are shaped such that the upper end of one piece of siding engages the lower surface of an upwardly adjacent piece of siding. Carter clearly does not disclose a "baseboard assembly" as required by the present claims, nor does it provide an assembly that would be useful if modified to serve as a baseboard assembly or a trim assembly. As such, Applicant respectfully submits that Carter is not analogous art.

However, in order to advance prosecution, Applicant has amended claim 1 to provide that the "base portion and top portion have dissimilar cross sections when taken perpendicular to the respective back surfaces." As shown in the various figures, the top portion and base portion are not substantially identical pieces, as is required for lap siding and as shown in the Carter reference. While embodiments of the present invention could be constructed with base and top portions that are somewhat similar, these portions would still have dissimilar cross-sections when the cross sections are taken perpendicular to their respective back surfaces. As such, Applicant respectfully submits that claim 1 is in condition for allowance. Claims 2-13 depend from claim 1 and are in condition for allowance therewith. Additionally, Applicant submits that the cited references fail to teach or suggest the limitations of the dependent claims. For example, claims 11 and 12 stand rejected over the combination of the Trutwin and Carter patents. Claims 11 and 12 add the limitation that either the base portion or the top portion has a recess formed where the back surface meets the upper or lower end, respectively. The Examiner relies on the Trutwin reference as

Serial No. 10/694,304

- 7 -

60905aku

showing a baseboard with a recess, but admits that Trutwin fails to provide a sloped upper and lower surface on their respective pieces. Instead, Trutwin provides a complicated tongue and groove joint for joining an upper and lower portion of a baseboard so as to hide a recess.

In rejecting claims under 35 U.S.C. §103, the Examiner must provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art, or to combine references, to arrive at Applicant's claimed invention. There must be something *in the prior art* that suggests the proposed modification, other than the hindsight gained from knowledge that the inventor choose to combine these particular things in this particular way. Uniroval Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988). The Examiner is also required to make specific findings on a suggestion to combine prior art references. In Re Dembiczak, 175 F.3d 994, 1000-01, 50 USPQ2d 1614, 1617-19 (Fed. Cir. 1999).

Trutwin fails to teach or suggest alternative construction approaches to the baseboard invention and neither Trutwin or Carter in any way suggests that one of skill in the art should seek out and combine the two references. In fact, the Carter reference is directed to solving a different problem than Trutwin and does not suggest or teach using the lap siding design shown in any type of trim, especially a baseboard assembly.

New independent claim 16 is similar to original claim 1, but has been modified to provide that the base portion has a lower end that is generally flat and perpendicular to the back surface. This distinguishes the Carter reference, wherein the lap siding elements each have a lower surface with a complicated shape, in keeping with the intended use as siding. This claim also distinguishes Trutwin, since Trutwin fails to provide or suggest sloped upper and lower surfaces on the respective pieces.

Dependent claims 4 and 10 have also been amended herein to address the Examiner's objections. With respect to claim 4, the Examiner stated that it was unclear what was meant by a horizontal cross section. Claim 4 has been modified to provide that the corner is generally vertical, thereby making it clear that the cross section is perpendicular thereto. Claim 10 has been amended to provide that the two portions are formed from "a single" piece of wood. This should address the antecedent basis objection.

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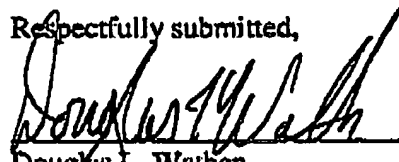
SEP 05 2006  
60905aka

Serial No. 10/694,304

- 8 -

Applicant submits that the application is now in condition for allowance. If the Examiner would like to discuss any further changes to the claims, Applicant asks that he contact Applicant's below-signed representative to discuss these changes prior to an additional Office Action.

Respectfully submitted,



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